

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Elbert Simpkins,	)	C/A No. 5:12-1447-GRA-KDW
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER
Sheriff Al Cannon, Captain Keys, et al.,	)	
	)	
	)	
Defendants.	)	
_____	)	

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. This matter is before the court on Plaintiff’s Motion to Change Venue, ECF No. 62, and Motion for Reconsideration, ECF No. 63. Defendants oppose these motions. ECF Nos. 69, 70. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under 42 U.S.C. § 1983.

**Motion to Change of Venue, ECF No. 62**

Plaintiff requests a change of venue arguing that he “feels a lot of prejudice towards [him] in these proceedings” and believes that there is “one sided treatment towards defendant[s]” and therefore he does not believe his “claim will be dealt with justly and fairly at the current place.” ECF No. 62. Defendants oppose this motion and argue that Plaintiff has not provided a valid basis for his motion. ECF No. 69.

Plaintiff argues that this court is treating him unfairly because the court granted Defendants’ motion for an extension of time to respond to Plaintiff’s Response to Defendant’s Motion for Summary Judgment. ECF No. 62. Plaintiff argues that the court granted this request

and “blatantly disregarded” his response to Defendants’ summary judgment motion where he argued that he “did not have the necessary documents to properly dispute what the defendants said in their motion.” *Id.* The court observes that Plaintiff did not request, nor was he denied, an extension of time to respond to Defendants’ Motion for Summary Judgment, and therefore Plaintiff has not offered sufficient factual allegations to support his broad assertion that he is being treated unfairly. Plaintiff’s request for change of venue, ECF No. 62, is denied. Plaintiff also requests that the court grant him the opportunity to file a sur-reply to Defendants’ reply. The court grants this request and Plaintiff will have 10 days from the date of this order to file his response to Defendants’ Reply, ECF No. 71.

### **Motion to Reconsider, ECF No. 63**

Plaintiff asks the court to reconsider its text order dated December 28, 2012, ECF No. 58, which granted Defendants’ request for an extension of time to respond to Plaintiff’s response to their summary judgment motion. ECF No. 63. Plaintiff argues that he was entitled to object to Defendants’ motion prior to the court ruling on it, and the court did not give him the opportunity to object. *Id.* Plaintiff also argues that he is still waiting for “documents and materials that could” help him “address necessary issues,” but the court “grant[ed] defendants motion for extension of time under the grounds of the defendant were not able to obtain necessary information to properly reply.” *Id.* The court has reviewed Plaintiff’s objection to the extension and finds that it does not warrant any adjustment to the court’s prior ruling. Plaintiff’s motion to reconsider, ECF No. 63, is denied.

### **Conclusion**

Therefore, for the foregoing reasons, it is ORDERED that Plaintiff’s Motion to Change of Venue, ECF No. 62, and Motion to Reconsider, ECF No. 63 are denied. Plaintiff’s request to

file a sur-reply to Defendants' reply to Plaintiff's response to Defendants' summary judgment motion is granted and Plaintiff has 10 days from the date of this order to file his reply.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Kaymani D. West". The signature is fluid and cursive, with the first name "Kaymani" being more prominent than the last name "West".

February 5, 2013  
Florence, South Carolina

Kaymani D. West  
United States Magistrate Judge